

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----X
UNITED STATES OF AMERICA,

S1 21 Cr. 296 (PAC)

*-against-***ORDER**

PAUL FISHBEIN,

Defendant.
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On April 27, 2023, a jury convicted Paul Fishbein (“Fishbein”) on five counts¹ arising out of his scheme to defraud two New York City agencies—the Human Resources Administration and the Housing Preservation & Development—of rental subsidy payments and brokers’ fees and of his scheme to defraud Medicaid. In advance of Fishbein’s sentencing, the Government submitted a letter with its request for forfeiture and restitution. Specifically, the Government requests that Fishbein forfeit a total of \$1,894,644.01 “as well as any property interest he purports to have in 18 properties located in New York City,” and seeks an order of restitution for \$1,894,644.01. Government’s Letter 1, ECF No. 147. Fishbein consents to the Government’s calculations and forfeiture of the amount of rental subsidy payments relating to five properties, the amount of the brokers’ fees, and Medicaid payments, but he contests the remaining portions of the Government’s request and asks the Court to hold a hearing. Fishbein’s Letter 3, 5, ECF No. 150. Pursuant to Federal Rule of Criminal Procedure 32.2(b)(1)(B), “[i]f the forfeiture is contested, on either party’s

¹ On March 10, 2023, Fishbein was charged in a superseding indictment on the following five counts: (1) wire fraud, in violation of 18 U.S.C. §§ 1343 and 2; (2) mail fraud, in violation of 18 U.S.C. §§ 1341 and 2; (3) theft of government funds, in violation of 18 U.S.C. §§ 641 and 2; (4) aggravated identity theft, in violation of 18 U.S.C. §§ 1028A and 2; and (5) health care fraud, in violation of 18 U.S.C. §§ 1347 and 2.

request the court must conduct a hearing after the verdict or finding of guilty.” The Court therefore **GRANTS** Fishbein’s request to conduct a hearing. As a result, Fishbein’s sentencing scheduled for October 19, 2023 is adjourned.

In advance of the hearing, the parties must brief the following issues. First, by October 20, 2023, Fishbein must submit a list clarifying precisely what he contests (i.e., the money amount or “property interest” or both) for each of the eighteen properties for which the Government seeks forfeiture and restitution.² Fishbein should list each property separately.

Second, by October 20, 2023, the Government must respond to the legal issues raised in Fishbein’s letter regarding (1) the basis for finding that the interest in each property “constitutes or is derived from” proceeds, 18 U.S.C. § 981(a)(1)(C), and (2) whether restitution is warranted for the “full amount of the payments made,” *see* Fishbein’s Letter 5–6.

Finally, by October 27, 2023, the parties must submit a joint stipulation of uncontested issues that are relevant to the Court’s determination of forfeiture and restitution. The parties must similarly submit a joint request of the witnesses that they intend to call at the hearing and each witness’s relevance to the contested topics, the amount of time that each party wishes to spend on direct or cross examination of each witness, and whether the parties request any time and how much time for oral argument. Each party also must submit the exhibits that they intend to use in support or opposition of the forfeiture request and any objections by the opposing party to the Court’s consideration of those exhibits.

² Fishbein’s letter is not clear on this point. For example, Fishbein has not clearly stated whether he objects to *both* paying the amount of money requested and forfeiting his property interest for Properties Six through Eighteen. *See* Fishbein’s Letter 3, 5, ECF No. 150.

Once the parties have provided these pre-hearing submissions, the Court will promptly schedule the hearing.

Dated: New York, New York
October 16, 2023

SO ORDERED

A handwritten signature in black ink, appearing to read "Paul A. Crotty", written over a horizontal line.

PAUL A. CROTTY
United States District Judge